

PLANNED DEVELOPMENT PERMIT

FILE NO.	PD21-007
LOCATION OF PROPERTY	130 Roundtable Dr (APN 684-30-062)
ZONING DISTRICT	RM(PD) Planned Development
ZONING FILE NUMBER	PDC76-113
GENERAL PLAN DESIGNATION	Mixed Use Neighborhood
PROPOSED USE	Planned Development permit to allow prior installation of two automatic vehicular gates and a front yard fence at an existing multifamily residential property
ENVIRONMENTAL STATUS	Exempt pursuant to CEQA Guidelines Section 15301(e)(1) for Existing Facilities
OWNER/APPLICANT	Ayesha Sikandar (Glenbrook Apartments LLC) 533 Airport Blvd #220 Burlingame CA 94010

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts regarding this proposed project:

- Project Description.** The project consists of granting a Planned Development Permit to legalize (1) two automatic vehicular gates that had already been installed at the ingress and egress driveways and (2) a wrought iron fence, 7 feet tall, across the front yard fence with pedestrian access gate and other 3-feet tall fences around the property, at an existing multifamily residential property on an approximately 3.9-gross acre site. The site has two ingress/egress driveways from Roundtable Drive.
- Site Description and Surrounding Uses.** The site is located on the south side of Roundtable drive, 100 feet west of Bendorf drive. The subject 3.9-gross acre site is bounded by residential uses on all sides. The site is developed with twenty-two individual four-plex buildings, a central grassy area, and a driveway wrapping around the entire site with ingress and egress easement for each of these individual buildings. No new construction is proposed as part of this project.
- General Plan Conformance.** The Envision San José 2040 General Plan Land Use/Transportation Diagram designation for this site is Mixed Use Neighborhood. This designation supports a range uses serving communities. This project is not proposing to make any changes to the existing use of the site (multi-family residential) nor does it intensify the use. The project is therefore in conformance with the General Plan.

4. **Zoning Compliance.** The subject site is located in the RM(PD) Planned Development Zoning District established with Zoning File No. PDC76-113. Pursuant to Section 20.100.910 of the San José Municipal Code, a Planned Development Permit is required prior to the issuance of any building permit for erection, construction, enlargement, placement or installation of a building or structure in conformance with the Zoning Ordinance. The proposed project conforms to the approved General Development Plan of the Planned Development Zoning District as follows:
 - a. **Use.** Multi-family residential is allowed in this RM(PD) Planned development zoning district.
Analysis: The project does not change the primary use of the property.
 - b. **Height and Setback.** The PD Zoning development standards is silent about the height or setbacks. Therefore the development standards of RM-Multi-family residential zoning is applied to the project. Front setback in the RM-Multi-family residential zoning district is 10 feet.
Analysis: The project proposes legalizing a seven feet tall fence located along existing building lines. The project also proposes legalizing vehicular gates that are located at the entrance of the driveways, at a distance of approximately 11 feet from the front property line. The 3-foot tall fences built in the front setback areas are allowed in the front setback. The project therefore meet the development standards of the zoning district.
5. **City Council Policy Consistency.** Under City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals, the project is considered to be a standard development. Standard development projects are required to provide Early Notification by website, email, and postcard mailed to property owners and tenants within a 500-foot radius, and by on-site signage. Following City Council Policy 6-30, the on-site sign has been posted at the site to inform the neighborhood of the project. Staff has been available to respond to questions from the public.
6. **Environmental Review.** Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the Planned Development Permit is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. CEQA Guidelines Section 15301(e)(1) for Existing Facilities exempts projects consisting of minor alterations of existing structures involving negligible expansion of use beyond that existing at the time of lead agency's determination, where negligible expansion is defined as additions to existing structures that will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less.
Analysis: The project proposes to legalize already installed gates and fences, and does not alter or expand the existing use or structures in any way. No new construction is proposed as part of the project.

FINDINGS

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

Planned Development Permit Findings. Section 20.100.940 of the San José Zoning Ordinance establishes the required findings for issuance of a Planned Development Permit. The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts with respect to the Planned Development Permit findings, that:

1. The Planned Development Permit, as issued, is consistent with and furthers the policies of the General Plan.

Analysis: The subject site has a General Plan Land Use/ Transportation Diagram designation of Mixed Use Neighborhood which supports a range of uses. The minor changes to the site (fences and gates) will enable the current residential use to continue and thus conforms to the General Plan designation.

2. The Planned Development Permit, as issued, conforms in all respects to the planned development zoning of the property.

Analysis: As discussed above, the subject site is located in the RM(PD) Planned Development Zoning District, and this Planned Development Permit would legalize gates and fences which will enable the existing residential use to continue, consistent with the development standards of the zoning district, as analyzed under the zoning ordinance conformance section above. The proposed development conforms with all required setbacks, height, and parking requirements.

3. The Planned Development Permit, as approved, is consistent with applicable City Council Policies, or counterbalancing considerations justify the inconsistency.

Analysis: The project has been noticed for public hearing to a radius of 500 feet, consistent with the Public Outreach City Council Policy 6-30. A on-site sign has been posted at the site to inform the neighborhood of the project. Staff has been available to respond to questions from the public.

4. The interrelationship between the orientation, location, mass and scale of building volume, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious.

Analysis: The project legalizes already constructed wrought iron fences and gates, and does not alter the orientation, location, mass and scale of building volume, and elevations of proposed buildings. The project site will maintain adequate parking, pedestrian access and circulation.

5. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties

Analysis: The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties, in that the project does not involve any new construction..

6. Traffic access, pedestrian access and parking are adequate.

Analysis: The vehicular gates placed at the ingress and egress driveways have been reviewed by the Department of Public Works engineers for adequacy of on-and off-site traffic access, and they have concluded that the project meets all city policy in this regard. The 7-

foot tall front fence has pedestrian gates that provides pedestrian access to the site. The project proposes no change to the existing parking.

In accordance with the findings set forth above, a Planned Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per San José Municipal Code Section 20.100.290(B), should Permittee fail to file a timely and valid appeal of this Planned Development Permit (referred herein as "Permit") within the applicable appeal period, such inaction by the Permittee shall be deemed to constitute all of the following on behalf of the Permittee:
 - a. Acceptance of the Permit by the Permittee; and
 - b. Agreement by the Permittee to be bound by, to comply with, and to do all things required of or by the Permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four (4) years from and after the date of issuance hereof by the Planning Director, if within such time period, the proposed use of the site or the construction of buildings has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. The Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Permit shall be deemed acceptance of all conditions specified in this Permit and the Permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described in the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José - Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José - Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager is necessary to remain within the aggregate

operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

5. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved Planned Development Permit plans entitled, “Glenbrook Apartments 130 Roundtable Drive” dated January 1, 2021 on file with the Department of Planning, Building and Code Enforcement (“Approved Plans”), and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
6. **Previous Planned Development Permits in Effect.** This Planned Development Permit does not alter any conditions of the previously issued Planned Development Permit(s). The property must be maintained in compliance with all previously issued development permits.
7. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City of San José.
8. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, and state, and federal laws.
9. **Discretionary Review.** The City maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
10. **Refuse.** All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping.
11. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
12. **Anti-Graffiti.** The permittee shall remove all graffiti from buildings, fences, and wall surfaces within 48 hours of defacement, including during construction.
13. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts, and garbage.
14. **No Sign Approval.** Any signage shown on the Approved Plan Set are conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning, Building, and Code Enforcement through a subsequent Permit Adjustment.
15. **Building and Property Maintenance.** The permittee shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the building such as paint, roof, paving, signs, lighting and landscaping.
16. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
17. **Mechanical Equipment.** The location and type of mechanical equipment shall be as shown on the Approved Plans and shall be screened from view. Changes to the mechanical equipment requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning.

18. **Affordable Housing Financing Plans.** The San José City Council (“City”) approved the Envision San José General Plan 2040 (“General Plan”) in 2011. The General Plan provides the framework for development located in San José.

The City is in the process of developing financing plans to help fund affordable housing and related amenities and services. The financing plans may include the creation of a (i) Community Facilities District(s); (ii) Enhanced Infrastructure Financing District(s); (iii) Property Based Improvement District(s); (iv) Mitigation Impact Fee program(s); (v) Commercial linkage fee program(s); and/or (vi) other financing mechanisms or combination thereof. For example, the City Council has directed City staff to complete studies and make recommendations related to commercial impact fees to help fund affordable housing. These efforts are on-going and there will continue to be other similar efforts to study various funding mechanisms for affordable housing. By accepting this Permit including the conditions of approval set forth in this Permit, permittee acknowledges it has read and understands all of the above. Permittee further agrees that prior to the issuance of any building permit, the project shall be subject to, fully participate in, and pay any and all charges, fees, assessments, or taxes included in any City Council approved financing plans related to affordable housing, as may be amended, which may include one or more of the financing mechanisms identified above.

19. **Landscaping.** Planting and irrigation are to be provided and maintained by the Permittee, as indicated, on the final Approved Plans.
20. **Irrigation Standards.** Irrigation shall be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping, the City of San José Landscape and Irrigation Guidelines and the Zonal Irrigation Plan in the Approved Plans. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
21. **Certification.** Pursuant to San José Municipal Code, Section 15.11.1050 certificates of substantial completion for landscape and irrigation installation shall be completed by a licensed or certified professional and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project
22. **Green Building Requirements.** This development is subject to the City’s Green Building Ordinance for Private Sector New Construction as set for in Municipal Code Section 17.84. Prior to the issuance of any shell permits, or complete building permits, for the construction of buildings approved through the scope of this Permit, the Permittee shall pay a Green Building Refundable Deposit. In order to receive a refund of the deposit, the project must achieve the minimum requirements as set forth in Municipal Code Section 17.84. The request for the refund of the Green Building Deposit together with evidence demonstrating the achievement of the green building standards indicated in Municipal Code Section 17.84 shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.
23. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
24. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the project must comply with the 2019 California Fire Code.

25. **Building Division Clearance for Issuing Permits.** Prior to the issuance of any Building permit, the following requirements shall be met to the satisfaction of the Chief Building Official:
- Construction Plans.* This Permit file number, PD21-007, shall be printed on all construction plans submitted to the Building Division.
 - San José's Natural Gas Infrastructure Prohibition and Reach Code Ordinances.* The City's Natural Gas Infrastructure Prohibition and Reach Code Ordinances apply to this project and all requirements shall be met. For more information, please visit www.sjenvironment.org/reachcode.
 - Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - Emergency Address Card.* The project Permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance begins with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
 - Other.* Such other requirements as may be specified by the Chief Building Official.
26. **Clara Valley Habitat Plan.** The project may be subject to applicable SCVHP conditions and fees prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form (<https://www.scv-habitatagency.org/DocumentCenter/View/151/Coverage-Screening-Form?bidId=>) to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of applicable fees prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at <https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan>
27. **Public Works Clearance for Building Permit(s):** Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/devresources>
- Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. The Minor Improvement Permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
 - Transportation:** This project does not propose any new trip generating facilities or structures. We conclude that the subject project will be in conformance with the City of San Jose Transportation Analysis Policy (Council Policy 5-1) and a determination for a negative declaration can be made with respect to traffic impacts.
 - Private Improvements within Public Property:** Provide at least 25 feet of vehicle storage between the entry gate and the back of sidewalk/property line. The distance of the

existing entry gate from the back of the sidewalk, as measured on the site plan, is approximately 20 feet which is in general conformance with this provision. No further action is required.

d. Street Improvements:

- i. Reconstruct the existing driveways along Roundtable Drive project frontage to be ADA complaint per CSJ standards.
- ii. Remove and replace broken, uplifted curb and gutter as well as broken, uplifted or non-ADA compliant sidewalk along project frontage

e. **Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:

- i. A violation of any conditions of the Planned Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
- ii. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- iii. The use as presently conducted creates a nuisance.

APPROVED and issued on this **26 the Day of January, 2022.**

Christopher Burton, Director
Planning, Building, and Code Enforcement

Deputy